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Bradford v. Roche Moving & Storage, Inc. Clerk's Record v. 1 Dckt. 34854

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LAW CLERK

Vol. 1 of 3

BEFORE THE SUPREME COURT OF THE STATE OF IDAHO

BARRY BRADFORD,

Claimant/Appellant,

v.

ROCHE MOVING & STORAGE, INC.,
Employer, and LIBERTY NORTHWEST
INSURANCE CORPORATION, Surety

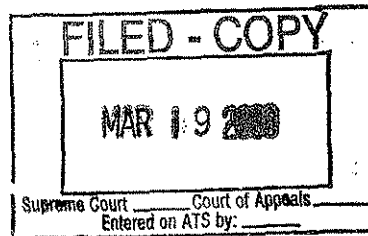
and

FRONTIER MOVING & STORAGE
INC., Employer, and IDAHO STATE
INSURANCE FUND, Surety,

Defendants/Respondents..

SUPREME COURT NO. 34854

AGENCY'S RECORD



BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

Attorney for Claimant/Appellant

Paul T. Curtis
598 North Capital Avenue
Idaho Falls, ID 83402

Attorney for Defendants/Respondents
Roche Moving & Storage, Inc., and
Liberty Northwest Insurance Corp.

Monte R. Whittier
P.O. BOX 6358
Boise, ID 83707-6358

Attorney for Defendants/Respondents
Frontier Moving & Storage, Inc., and
Idaho State Insurance Fund

Scott R. Hall
P.O. Box 51630
Idaho Falls, ID 83405-1630

34854

COPY

BEFORE THE SUPREME COURT OF THE STATE OF IDAHO

BARRY BRADFORD,

Claimant/Appellant,

v.

ROCHE MOVING & STORAGE, INC.,
Employer, and LIBERTY NORTHWEST
INSURANCE CORPORATION, Surety

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FRONTIER MOVING & STORAGE
INC., Employer, and IDAHO STATE
INSURANCE FUND, Surety,

Defendants/Respondents..

SUPREME COURT NO. 34854

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Idaho Falls, ID 83405-1630

COPY

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filed January 23, 2007	13

LIST OF EXHIBITS

Reporter's Transcript taken May 3 & 4, 2007, will be lodged with the Supreme Court.

Defendants' Exhibits:

- A. Notice of Injury
- B. Asset Purchase Agreement
- C. Frontier payroll information
- D. Idaho Department of Commerce and Labor information
- E. Frontier/Roche reconciliation
- F. Roche time cards
- G. Roche checking activity and checks for 2006-2007
- H. Deposition transcript of David Scott Lancaster
- I. Deposition transcript of Chad Rose
- J. Deposition transcript of Barry Bradford & Recorded Statement of Barry Bradford
- K. Deposition transcript of Brenda Hill
- L. Deposition transcript of Dean Cook
- M. Frontier checks for Idaho Falls for 2006
- N. Final Frontier/Roche reconciliation & Frontier/Roche equipment list 10/30/2006
- O. W-4 & time card and check stubs for payroll for Frontier & Additional payroll and W-2 records for Frontier
- P. Frontier QuickBooks report
- Q. Helper/Lumper List
- R. Lease Agreement between Drewes and Frontier
- S. Calendar (July 31-August 11, 2006)
- T. Action Door Invoice
- U. Barry Bradford W-2 and 1099-Misc for Roche for 2006 and Roche payroll information for 2006
- V. Gellings Moving and Storage income information for Claimant

- W. Liberty Northwest Insurance correspondence
- X. Medical consultation from Eastern Idaho RMC
- Y. Medical report from Boise VAMC

Claimant's Exhibits:

- Z. Partial Medical Records and Bills of Claimant
- AA. Claimant's recorded statement to Defendant Liberty Northwest
- BB. Defendant Roche's 2006, End-of-Year Payroll Journal
- CC. Letter dated 12-08-06 from Frontier to Harmon, Whittier & Day
- DD. Correspondence by Defendant Liberty Northwest dated 10-21-06 – 11-06-06
- EE. Roche Moving & Storage Profit & Loss of August 1, 2006 to December 1, 2006
- FF. Statement dated 1/12/07 by Dean Cook
- GG. Defendant Roche and Liberty Northwest's Answers to Claimant's Interrogatories and Requests for Production of Documents
- HH. Defendant Frontier's and State Insurance Fund's Answers to Claimant's Request for Production of Documents
- II. W-2 Form 2005

11/16/2006 16:29 120854...93 CURTIS AND BROWN... PAGE 01/03

SEND TO: INDUSTRIAL COMMISSION, JUDICIAL DIVISION, P.O. BOX 83720, BOISE, IDAHO 83720-0041

WORKERS' COMPENSATION
COMPLAINT

CLAIMANT'S NAME Barry Rhett Bradford 390 Utley Idaho Falls, Id 83401 TELEPHONE NUMBER: no phone		CLAIMANT'S ATTORNEY'S NAME AND ADDRESS Paul T. Curtis CURTIS & BROWNING 598 N. Capital Idaho Falls, Idaho 83402
EMPLOYERS NAME AND ADDRESS (at the time of injury) Roche Moving & Storage Inc. 857 Lindsey Blvd. Idaho Falls, ID 83402		WORKERS' COMPENSATION INSURANCE CARRIER'S (NOT ADJUSTOR'S) NAME AND ADDRESS Liberty Northwest 6213 North Cloverdale Road, Suite 150 P.O. Box 7507 Boise, ID 83707-1507
CLAIMANT'S SOCIAL SECURITY NO. [REDACTED]	CLAIMANT'S BIRTHDAY [REDACTED]	DATE OF INJURY OR MANIFESTATION OF OCCUPATIONAL DISEASE
STATE AND COUNTY IN WHICH INJURY OCCURRED Idaho Bonneville		WHEN INJURED, CLAIMANT WAS EARNING AN AVERAGE WEEKLY WAGE of: \$ 10.00 per hour §72-419, IDAHO CODE
DESCRIBE HOW INJURY OR OCCUPATIONAL DISEASE OCCURRED (WHAT HAPPENED) Claimant was called to come to work at 8:00 a.m. He was instructed to un-jam a freight access door. The door malfunctioned causing the Claimant to flip off of a forklift onto the cement floor causing significant injuries to his person.		
NATURE OF MEDICAL PROBLEMS ALLEGED AS A RESULT OF ACCIDENT OR OCCUPATIONAL DISEASE Burst fracture involving the T9 vertebra. Multiple bilateral rib fractures. Respiratory distress; Fracture of the C5 Spinous process; Multiple spinous process fractures involving T3-T9; Fractures involving T6-T10; Clavicular fractures; Fractures of the glenoids bilaterally.		
WHAT WORKERS' COMPENSATION BENEFITS ARE YOU CLAIMING AT THIS TIME? PPI, TPD, TTD, Non-Medical Factor Disability, Past Medical Expenses, Future Medical Expenses, Retraining, and Attorney's Fees.		
DATE ON WHICH NOTICE OF INJURY WAS GIVEN TO EMPLOYER 8/09/06		TO WHOM NOTICE WAS GIVEN: Frontier Supervisor
HOW NOTICE WAS GIVEN <input checked="" type="checkbox"/> ORAL <input type="checkbox"/> WRITTEN <input type="checkbox"/> OTHER. PLEASE STATE		
ISSUE OR ISSUES INVOLVED PPI, TPD, TTD, Non-Medical Factor Disability, Past Medical Expenses, Future Medical Expenses, Retraining, and Attorney's Fees. Possible Total Perm.		
DO YOU BELIEVE THIS CLAIM PRESENTS A NEW QUESTION OF LAW OR A COMPLICATED SET OF FACTS? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO IF SO, PLEASE STATE WHY		
NOTICE: COMPLAINTS AGAINST THE INDUSTRIAL INDEMNITY FUND MUST BE FILED ON FORM I.C. 1002		


NOISSUED...
03/13/07

NE 7 16 91 NOV 9007

SEND TO: INDUSTRIAL COMMISSION, JUDICIAL DIVISION, P.O. BOX 83720, BOISE, IDAHO 83720-0041

WORKERS' COMPENSATION COMPLAINT

CLAIMANT'S NAME Barry Rhett Bradford 390 Utley Idaho Falls, Id 83401 TELEPHONE NUMBER: no phone		CLAIMANT'S ATTORNEY'S NAME AND ADDRESS Paul T. Curtis CURTIS & BROWNING 598 N. Capital Idaho Falls, Idaho 83402	
EMPLOYERS NAME AND ADDRESS (at the time of injury) Roche Moving & Storage Inc. 857 Lindsey Blvd. Idaho Falls, ID 83402		WORKERS' COMPENSATION INSURANCE CARRIER'S (NOT ADJUSTOR'S) NAME AND ADDRESS Liberty Northwest 6213 North Cloverdale Road, Suite 150 P.O. Box 7507 Boise, ID 83707-1507	
CLAIMANT'S SOCIAL SECURITY NO. [REDACTED]	CLAIMANT'S BIRTHDAY [REDACTED]	DATE OF INJURY OR MANIFESTATION OF OCCUPATIONAL DISEASE	
STATE AND COUNTY IN WHICH INJURY OCCURRED Idaho Bonneville		WHEN INJURED, CLAIMANT WAS EARNING AN AVERAGE WEEKLY WAGE of: \$ 10.00 per hour §72-419, IDAHO CODE	
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ISSUE OR ISSUES INVOLVED PPI, TPD, TTD, Non-Medical Factor Disability, Past Medical Expenses, Future Medical Expenses, Retraining, and Attorney's Fees. Possible Total Perm.			
DO YOU BELIEVE THIS CLAIM PRESENTS A NEW QUESTION OF LAW OR A COMPLICATED SET OF FACTS? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> IF NO, PLEASE STATE WHY			
NOTICE: COMPLAINTS AGAINST THE INDUSTRIAL INDEMNITY FUND MUST BE FILED ON FORM I.C. 1002			

PHYSICIANS WHO TREATED CLAIMANT (NAME AND ADDRESS) Dr. Robert Cache 2375 E. Sunnyside, Suite G. Idaho Falls, ID 83404		
WHAT MEDICAL COSTS HAVE YOU INCURRED TO DATE? WHAT MEDICAL COSTS HAS YOUR EMPLOYER PAID, IF ANY? \$ _____ WHAT MEDICAL COSTS HAS YOU PAID, IF ANY? \$ _____		
I AM INTERESTED IN MEDIATING THIS CLAIM, IF THE OTHER PARTIES AGREE <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
DATE 11/16/2006	SIGNATURE OF CLAIMANT OR ATTORNEY 	
PLEASE ANSWER THE SET OF QUESTIONS IMMEDIATELY BELOW ONLY IF CLAIM IS MADE FOR DEATH BENEFITS		
NAME AND SOCIAL SECURITY NUMBER OF PARTY FILING COMPLAINT	DATE OF DEATH	RELATION OF DECEASED TO CLAIMANT
WAS FILING PARTY DEPENDENT ON DECEASED <input type="checkbox"/> yes <input type="checkbox"/> no		DID CLAIMANT LIVE WITH DECEASED AT TIME OF ACCIDENT? <input type="checkbox"/> yes <input type="checkbox"/> no

CLAIMANT MUST COMPLETE, SIGN AND DATE THE ATTACHED MEDICAL RELEASE

CERTIFICATE OF SERVICE

**I hereby certify that on the 16th day of November, 2006, I caused to be served
a true and correct copy of the foregoing Complaint upon:**


Employer Roche Moving & Storage Inc. 857 Lindsey Blvd. Idaho Falls, ID	WORKERS' COMPENSATION INSURANCE CARRIER'S (NOT ADJUSTOR'S) NAME AND ADDRESS Liberty Northwest 6213 North Cloverdale Road, Suite 150 P.O. Box 7507 Boise, ID 83707-1507
---	---

via: ☐ personal service of persons

☒ Regular U.S. Mail

via: ☐ personal service of persons

☒ Regular U.S. Mail



 Paul T. Curtis

INDUSTIRAL COMMISSION
P.O. BOX 83720
BOISE, ID 83720-0041

Patient Name: _____
Birth Date: _____
Address: _____
Phone Number: _____
SSN or Case Number: _____

Medical Record Number: _____
☐ Pick up Copies ☐ Fax Copies# _____
☐ Mail Copies
ID Confirmed by: _____

AUTHORIZATION FOR DISCLOSURE OF HEALTH INFORMATION

I hereby authorize _____ to disclose health information as specified:
Provider Name

TO: _____
(Insurance Company/Third Party Administrator/Self Insured Employer/ISIF, their attorneys
or patient's attorney.)

Street Address _____

City _____ State _____ Zip Code _____

Purpose or need for data (e.g. Worker's Compensation Claim)

Information to be disclosed: Date(s) of Hospitalization/Care: _____

- ☐ Discharge Summary
☐ History Physical Exam
☐ Consultation reports
☐ Operative Reports
☐ Lab
☐ Pathology
☐ Radiology Reports
☐ Entire Record
☐ Other: Specify _____

I understand that the disclosure may include information relating to (check if
applicable):

- ☐ AIDS or HIV
☐ Psychiatric or Mental Health Information
☐ Drug/alcohol Abuse Information

I understand that the information to be released may include material that is protected by Federal Law (45 CFR Part 164) and that the information may be subject to redisclosure by the recipient and no longer be protected by the federal regulations. I understand that this authorization won't be revoked in writing at any time by notifying the privacy officer, except that revoking the authorization won't apply to information already released in response to this authorization. I understand that the provider will not condition treatment, payment, enrollment, or eligibility for benefits on my signing this authorization. *Unless otherwise revoked, this authorization will expire upon resolution of worker's compensation claim.* Provider, its employees, officers, copy service contractor, and physicians are hereby released from any legal responsibility or liability for disclosure of the above information to the extent indicated and authorized by me on this form and as outlined in the Notice of Privacy. My signature below authorizes release of all information specified in this authorization. Any questions that I have regarding disclosure may be directed to the privacy officer of the Provider specified above.

Signature of Patient _____ Date _____

Signature of Legal Representative & Relationship to Patient/Authority to Act _____ Date _____

Signature of Witness _____ Title _____ Date _____

11/30/2006 10:22 120854269...

CURTIS AND BROWNING

PAGE 01/03

SEND TO: INDUSTRIAL COMMISSION, JUDICIAL DIVISION, P.O. BOX 83720, BOISE, IDAHO 83720-0041

WORKERS' COMPENSATION COMPLAINT

CLAIMANT'S NAME Barry Rhett Bradford 390 Utley Idaho Falls, Id 83401 TELEPHONE NUMBER: no phone		CLAIMANT'S ATTORNEY'S NAME AND ADDRESS Paul T. Curtis CURTIS & BROWNING 598 N. Capital Idaho Falls, Idaho 83402	
EMPLOYERS NAME AND ADDRESS (at the time of injury) Frontier Moving & Storage 568 Grange Lane Twin Falls, ID 83301		WORKERS' COMPENSATION INSURANCE CARRIER'S (NOT ADJUSTOR'S) NAME AND ADDRESS Liberty Northwest 6213 North Cloverdale Road, Suite 150 P.O. Box 7507 Boise, ID 83707-1507	
CLAIMANT'S SOCIAL SECURITY NO. [REDACTED]	CLAIMANT'S BIRTHDAY [REDACTED]	DATE OF INJURY OR MANIFESTATION OF OCCUPATIONAL DISEASE 08/09/06	
STATE AND COUNTY IN WHICH INJURY OCCURRED Idaho Bonneville		WHEN INJURED, CLAIMANT WAS EARNING AN AVERAGE WEEKLY WAGE of: \$ 10.00 per hour §72-419, IDAHO CODE	
DESCRIBE HOW INJURY OR OCCUPATIONAL DISEASE OCCURRED (WHAT HAPPENED) Claimant was called to come to work at 8:00 a.m. by Roche Moving Storage. He was instructed to un-jam a freight access door. The door malfunctioned causing the Claimant to flip off of a forklift onto the cement floor causing significant injuries to his person.			
NATURE OF MEDICAL PROBLEMS ALLEGED AS A RESULT OF ACCIDENT OR OCCUPATIONAL DISEASE Burst fracture involving the T9 vertebra. Multiple bilateral rib fractures. Respiratory distress; Fracture of the C5 Spinous process; Multiple spinous process fractures involving T3-T9; Fractures involving T6-T10; Clavicular fractures; Fractures of the glenoids bilaterally.			
WHAT WORKERS' COMPENSATION BENEFITS ARE YOU CLAIMING AT THIS TIME? PPI, TPD, TTD, Non-Medical Factor Disability, Past Medical Expenses, Future Medical Expenses, Retraining, and Attorney's Fees.			
DATE ON WHICH NOTICE OF INJURY WAS GIVEN TO EMPLOYER 8/09/06		TO WHOM NOTICE WAS GIVEN: Frontier Supervisor	
HOW NOTICE WAS GIVEN <input checked="" type="checkbox"/> ORAL <input checked="" type="checkbox"/> WRITTEN <input type="checkbox"/> OTHER, PLEASE STATE			
ISSUE OR ISSUES INVOLVED PPI, TPD, TTD, Non-Medical Factor Disability, Past Medical Expenses, Future Medical Expenses, Retraining, and Attorney's Fees. Possible Total Perm.			
DO YOU BELIEVE THIS CLAIM PRESENTS A NEW QUESTION OF LAW OR A COMPLICATED SET OF FACTS? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> IF SO, PLEASE STATE WHY			
NOTICE: COMPLAINTS AGAINST THE INDUSTRIAL INDEMNITY FUND MUST BE FILED ON FORM I.C. 1002			

(Continued from front)

11. State with specificity what matters are in dispute and your reason for denying liability, together with any affirmative defenses.

A. Defendants deny all allegations of the Complaint not admitted herein.

B. Whether Claimant was an employee of Roche Moving & Storage Inc. at the time of the accident.

C. Whether Claimant is entitled to worker's compensation benefits and if so, from whom and to what extent.


D. Defendants reserve the right to amend this Answer since discovery in this matter has only just begun.

Under the Commission rules, you have twenty-one (21) days from the date of service of the Complaint to answer the Complaint. A copy of your Answer must be mailed to the Commission and a copy must be served on all parties or their attorneys by regular U.S. mail or by personal service of process. Unless you deny liability, you should pay immediately the compensation required by law, and not cause the claimant, as well as yourself, the expense of a hearing. All compensation which is concededly due and accrued should be paid. Payments due should not be withheld because a Complaint has been filed. Rule III(D), Judicial Rules of Practice and Procedure under the Idaho Workers' Compensation Law, applies. Complaints against the Industrial Special Indemnity Fund must be filed on Form I. C. 1002.

I AM INTERESTED IN MEDIATING THIS CLAIM, IF THE OTHER PARTIES AGREE. ☐ YES ☐ NO

DO YOU BELIEVE THIS CLAIM PRESENTS A NEW QUESTION OF LAW OR A COMPLICATED SET OF FACTS? IF SO, PLEASE STATE.

No

Amount of Compensation Paid to Date			Dated	Signature of Defendant or Attorney
PPD	TTD	Medical		
\$ -0-	\$ -0-	\$ -0-		

PLEASE COMPLETE

CERTIFICATE OF SERVICE

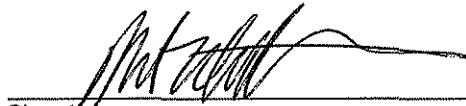
I hereby certify that on the 8th day of December, 2006, I caused to be served a true and correct copy of the foregoing Answer upon:

CLAIMANT'S ATTORNEY:

Paul t. Curtis
Attorney at Law
598 N. Capital
Idaho Falls, ID 83402

via: ☐ personal service of process
☒ regular U.S. Mail

Signature



01/05/2007 11:59 1208542695

CURTIS AND BROWNING

PAGE 01/02

SEND TO: INDUSTRIAL COMMISSION, JUDICIAL DIVISION, P.O. BOX 83720, BOISE, IDAHO 83720-0041

AMENDED WORKERS' COMPENSATION COMPLAINT

INDUSTRIAL COMMISSION

JAN - 5 2007

FILED

CLAIMANT'S NAME Barry Rhett Bradford 390 Utley Idaho Falls, Id 83401 TELEPHONE NUMBER: no phone		CLAIMANT'S ATTORNEY'S NAME AND ADDRESS Paul T. Curtis CURTIS & BROWNING 598 N. Capital Idaho Falls, Idaho 83402	
EMPLOYER'S NAME AND ADDRESS (at the time of injury) Frontier Moving and Storage 568 Grange Lane Twin Falls, Idaho 83301		WORKERS' COMPENSATION INSURANCE CARRIER'S (NOT ADJUSTOR'S) NAME AND ADDRESS Idaho State Insurance Fund P.O. Box 83720 Boise, ID 83720	
CLAIMANT'S SOCIAL SECURITY NO. 519-94-1659	CLAIMANT'S BIRTHDAY 3/10/61	DATE OF INJURY OR MANIFESTATION OF OCCUPATIONAL DISEASE	
STATE AND COUNTY IN WHICH INJURY OCCURRED Idaho Bonneville		WHEN INJURED, CLAIMANT WAS EARNING AN AVERAGE WEEKLY WAGE of: \$ 10.00 per hour §72-419, IDAHO CODE	
DESCRIBE HOW INJURY OR OCCUPATIONAL DISEASE OCCURRED (WHAT HAPPENED) Claimant was called to come to work at 8:00 a.m. He was instructed to un-jam a freight access door. The door malfunctioned causing the Claimant to flip off of a forklift onto the cement floor causing significant injuries to his person.			
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WHAT WORKERS' COMPENSATION BENEFITS ARE YOU CLAIMING AT THIS TIME? PPI, TPD, TTD, Non-Medical Factor Disability, Past Medical Expenses, Future Medical Expenses, Retraining, and Attorney's Fees.			
DATE ON WHICH NOTICE OF INJURY WAS GIVEN TO EMPLOYER 8/09/06		TO WHOM NOTICE WAS GIVEN: Frontier Supervisor	
HOW NOTICE WAS GIVEN <input checked="" type="checkbox"/> ORAL <input checked="" type="checkbox"/> WRITTEN <input type="checkbox"/> OTHER, PLEASE STATE			
ISSUE OR ISSUES INVOLVED PPI, TPD, TTD, Non-Medical Factor Disability, Past Medical Expenses, Future Medical Expenses, Retraining, and Attorney's Fees. Possible Total Perm.			
DO YOU BELIEVE THIS CLAIM PRESENTS A NEW QUESTION OF LAW OR A COMPLICATED SET OF FACTS? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO IF SO, PLEASE STATE WHY			
NOTICE: COMPLAINTS AGAINST THE INDUSTRIAL INDEMNITY FUND MUST BE FILED ON FORM I.C. 1002			

ANSWER TO AMENDED COMPLAINT

I.C. NO.: 06-523989

DATE: 8/9/2006

- ☒ The above-named employer or employer/surety responds to Claimant's Complaint by stating:
- ☐ The Industrial Special Indemnity Fund responds to the Complaint against the ISIF by stating:

<p>CLAIMANT'S NAME AND ADDRESS</p> <p>Barry Bradford 390 Utley Idaho Falls, ID 83401</p>	<p>CLAIMANT'S ATTORNEY'S NAME AND ADDRESS</p> <p>Paul T. Curtis 598 N. Capital Idaho Falls, ID 83402</p>
<p>EMPLOYER'S NAME AND ADDRESS</p> <p>Frontier Moving & Storage, Inc. 568 Grange Ln. Twin Falls, ID 83301</p> <p>TELEPHONE NUMBER:</p>	<p>WORKERS' COMPENSATION INSURANCE CARRIER'S (NOT ADJUSTOR'S) NAME AND ADDRESS</p> <p>Idaho State Insurance Fund 1215 West State Street P.O. Box 83720 Boise, ID 83720-0044</p>
<p>ATTORNEY REPRESENTING EMPLOYER OR EMPLOYER/SURETY (NAME AND ADDRESS)</p> <p>Blake G. Hall and Scott R. Hall Anderson Nelson Hall Smith, P.A. P.O. Box 51630 Idaho Falls, Idaho 83405-1630</p>	<p>ATTORNEY REPRESENTING INDUSTRIAL SPECIAL INDEMNITY FUND (NAME AND ADDRESS)</p>

IT IS: (Check One)		
Admitted	Denied	
X		1. That the accident or occupational exposure alleged in the Complaint actually occurred on or about the time claimed.
	X	2. That the employer/employee relationship existed.
X		3. That the parties were subject to the provisions of the Idaho Workers' Compensation Act.
	X	4. That the condition for which benefits are claimed was caused partly or entirely XXXX by an accident arising out of and in the course of Claimant's employment.
n/a	n/a	5. That, if an occupational disease is alleged, manifestation of such disease is or was due to the nature of the employment in which the hazards of such disease actually exist, are characteristic of and peculiar to the trade, occupation, process, or employment.
X		6. That notice of the accident causing the injury, or notice of the occupational disease, was given to the employer as soon as practical but not later than 60 days after such accident or 60 days of the manifestation of such occupational disease.
	X	7. That the rate of wages claimed is correct. If denied, state the average weekly wage pursuant to Idaho Code, § 72-419: Not an employee.
X		8. That the alleged employer was insured or permissibly self-insured under the Idaho Workers' Compensation Act.

9. What benefits, if any, do you concede are due Claimant?

NONE.

10. State with specificity what matters are in dispute and your reason for denying liability, together with any affirmative defenses.

* Employer/Surety deny each and every allegation not specifically admitted herein.

* Employer/Surety affirmatively allege the Claimant fails to state a cause of action upon which relief can be granted.

*Employer/Surety affirmatively allege discovery is just beginning and reserve the right to supplement this answer and to add additional affirmative defenses from time to time as the same are discovered or discerned.

*Employer/Surety deny entitlement to additional medical benefits, TPD, TTD, PPI, PPD, retraining, Attorney Fees, total permanent disability, or or any other benefit as alleged in the Complaint.

* Employer/Surety affirmatively allege maximum medical improvement.

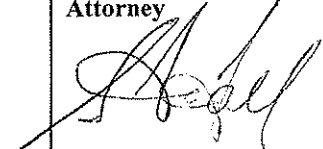
* Employer/Surety affirmatively allege 72-208.

Under the Commission rules, you have 21 days from the date of service of the Complaint to answer the Complaint. A copy of your Answer must be mailed to the Commission and a copy must be served on all parties or their attorneys by regular U.S. mail or by personal service of process. Unless you deny liability, you should pay immediately the compensation required by law, and not cause the claimant, as well as yourself, the expense of a hearing. All compensation which is concededly due and accrued should be paid. Payments due should not be withheld because a Complaint has been filed. Rule 3.D., Judicial Rules of Practice and Procedure under the Idaho Workers' Compensation Law, applied. Complaints against the Industrial Special Indemnity Fund must be filed out Form I.C. 1002.

I AM INTERESTED IN MEDIATING THIS CLAIM, IF THE OTHER PARTIES AGREE. ☐YES ☒NO

DO YOU BELIEVE THIS CLAIM PRESENTS A NEW QUESTION OF LAW OR A COMPLICATED SET OF FACTS? IF SO, PLEASE STATE.

No

Amount of Compensation Paid to Date			Dated	Signature of Defendant or Attorney
PPI/PPD	TTD	MEDICAL		
\$0.00	\$0.00	\$0.00	1/10/2007	 Scott R. Hall

CERTIFICATE OF SERVICE

I hereby certify that on the 10th day of January , 2007, I caused to be served a true and correct copy of the foregoing Answer upon:

CLAIMANT'S NAME AND ADDRESS

Barry Bradford
c/o Paul T. Curtis
598 N. Capital, Ave.
Idaho Falls, ID 83402

EMPLOYER AND SURETY'S
NAME AND ADDRESS

State Insurance Fund
P.O. Box 83720
Boise, Idaho 83720-0044

INDUSTRIAL SPECIAL INDEMNITY FUND
(if applicable)

via: ☐personal service of process

☒ regular U.S. Mail

via: ☐personal service of process

☒ regular U.S. Mail

via: ☐personal service of process

☐ regular U.S. Mail

Signature 

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

BARRY R BRADFORD,

Claimant,

v.

FRONTIER MOVING AND STORAGE,

Employer,

and

STATE INSURANCE FUND,

Surety,

Defendants.

IC 2006-523989

ORDER RE: FILING
ORIGINAL DOCUMENTS

FILED

JAN 16 2007

INDUSTRIAL COMMISSION

Pursuant to the Referee's review of the above-entitled matter, the Commission has received Facsimile copies of Claimant's Complaint and Amended Complaint, but no originals of said documents.


IT IS HEREBY ORDERED that Claimant file all original documents with the Industrial Commission pursuant J.R.P., Rule 4(A) regarding service of documents, within 15 days of the date of this Order.


IT IS SO ORDERED.

DATED this 16 day of January, 2007.

INDUSTRIAL COMMISSION

ATTEST:

The seal is circular with a double border. The outer border contains the text "INDUSTRIAL COMMISSION" at the top and "STATE OF IDAHO" at the bottom, separated by stars. The inner circle contains the word "SEAL" in the center. Overlaid on the seal is a signature and the text "Assistant Commissioner".
Assistant Commissioner


Alan Reed Taylor, Referee

ORDER RE: FILING ORIGINAL DOCUMENTS - 1

CERTIFICATE OF SERVICE

I hereby certify that on 16 day of January, 2007, a true and correct copy of the foregoing **ORDER RE: FILING ORIGINAL DOCUMENTS** was served by regular United States Mail upon each of the following:

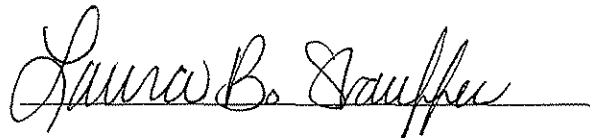
PAUL T CURTIS

fax: (208) 542-6993

SCOTT R HALL

fax: (208) 523-7254


lbs

A handwritten signature in cursive script, reading "Laura B. Stauffer", is written over a horizontal line.

SEND TO: INDUSTRIAL COMMISSION, JUDICIAL DIVISION, P.O. BOX 83720, BOISE, IDAHO 83720-0041

WORKERS' COMPENSATION COMPLAINT

CLAIMANT'S NAME Barry Rhett Bradford 390 Uteley Idaho Falls, Id 83401 TELEPHONE NUMBER: no phone		CLAIMANT'S ATTORNEY'S NAME AND ADDRESS Paul T. Curtis CURTIS & BROWNING 598 N. Capital Idaho Falls, Idaho 83402	
EMPLOYERS NAME AND ADDRESS (at the time of injury) Frontier Moving & Storage 568 Grange Lane Twin Falls, ID 83301		WORKERS' COMPENSATION INSURANCE CARRIER'S (NOT ADJUSTOR'S) NAME AND ADDRESS Liberty Northwest 6213 North Cloverdale Road, Suite 150 P.O. Box 7507 Boise, ID 83707-1507	
CLAIMANT'S SOCIAL SECURITY NO. [REDACTED]	CLAIMANT'S BIRTHDAY [REDACTED]	DATE OF INJURY OR MANIFESTATION OF OCCUPATIONAL DISEASE 08/09/06	
STATE AND COUNTY IN WHICH INJURY OCCURRED Idaho Bonneville		WHEN INJURED, CLAIMANT WAS EARNING AN AVERAGE WEEKLY WAGE of: \$ 10.00 per hour §72-419, IDAHO CODE	
DESCRIBE HOW INJURY OR OCCUPATIONAL DISEASE OCCURRED (WHAT HAPPENED) Claimant was called to come to work at 8:00 a.m. by Roche Moving Storage. He was instructed to un-jam a freight access door. The door malfunctioned causing the Claimant to flip off of a forklift onto the cement floor causing significant injuries to his person.			
NATURE OF MEDICAL PROBLEMS ALLEGED AS A RESULT OF ACCIDENT OR OCCUPATIONAL DISEASE Burst fracture involving the T9 vertebra. Multiple bilateral rib fractures. Respiratory distress; Fracture of the C5 Spinous process; Multiple spinous process fractures involving T3-T9; Fractures involving T6-T10; Clavicular fractures; Fractures of the glenoids bilaterally.			
WHAT WORKERS' COMPENSATION BENEFITS ARE YOU CLAIMING AT THIS TIME? PPI, TPD, TTD, Non-Medical Factor Disability, Past Medical Expenses, Future Medical Expenses, Retraining, and Attorney's Fees.			
DATE ON WHICH NOTICE OF INJURY WAS GIVEN TO EMPLOYER 8/09/06		TO WHOM NOTICE WAS GIVEN: Frontier Supervisor	
HOW NOTICE WAS GIVEN <input checked="" type="checkbox"/> ORAL <input checked="" type="checkbox"/> WRITTEN <input type="checkbox"/> OTHER, PLEASE STATE			
ISSUE OR ISSUES INVOLVED PPI, TPD, TTD, Non-Medical Factor Disability, Past Medical Expenses, Future Medical Expenses, Retraining, and Attorney's Fees. Possible Total Perm.			
DO YOU BELIEVE THIS CLAIM PRESENTS A NEW QUESTION OF LAW OR A COMPLICATED SET OF FACTS? _____ YES <input checked="" type="checkbox"/> NO IF SO, PLEASE STATE WHY			
NOTICE: COMPLAINTS AGAINST THE INDUSTRIAL INDEMNITY FUND MUST BE FILED ON FORM I.C. 1002			

PHYSICIANS WHO TREATED CLAIMANT (NAME AND ADDRESS) Dr. Robert Cache 2375 E. Sunnyside, Suite G. Idaho Falls, ID 83404		
WHAT MEDICAL COSTS HAVE YOU INCURRED TO DATE? WHAT MEDICAL COSTS HAS YOUR EMPLOYER PAID, IF ANY? \$ _____ WHAT MEDICAL COSTS HAS YOU PAID, IF ANY? \$ _____		
I AM INTERESTED IN MEDIATING THIS CLAIM, IF THE OTHER PARTIES AGREE <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
DATE 11/28/2006	SIGNATURE OF CLAIMANT OR ATTORNEY 	
PLEASE ANSWER THE SET OF QUESTIONS IMMEDIATELY BELOW ONLY IF CLAIM IS MADE FOR DEATH BENEFITS		
NAME AND SOCIAL SECURITY NUMBER OF PARTY FILING COMPLAINT	DATE OF DEATH	RELATION OF DECEASED TO CLAIMANT
WAS FILING PARTY DEPENDENT ON DECEASED <input type="checkbox"/> yes <input type="checkbox"/> no		DID CLAIMANT LIVE WITH DECEASED AT TIME OF ACCIDENT? <input type="checkbox"/> yes <input type="checkbox"/> no

CLAIMANT MUST COMPLETE. SIGN AND DATE THE ATTACHED MEDICAL RELEASE

CERTIFICATE OF SERVICE

**I hereby certify that on the 28th day of November, 2006, I caused to be served
a true and correct copy of the foregoing Complaint upon:**


Employer Frontier Moving & Storage 568 Grange Lane Twin Falls, Idaho 83301	WORKERS' COMPENSATION INSURANCE CARRIER'S (NOT ADJUSTOR'S) NAME AND ADDRESS Idaho State Insurance Fund P.O. Box 83720 Boise, ID 83720
---	---

via: ☐ personal service of persons

XX Regular U.S. Mail

via: ☐ personal service of persons

XX Regular U.S. Mail

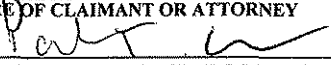


 Paul T. Curtis

SEND TO: INDUSTRIAL COMMISSION, JUDICIAL DIVISION, P.O. BOX 83720, BOISE, IDAHO 83720-0041

**AMENDED
WORKERS' COMPENSATION
COMPLAINT**

CLAIMANT'S NAME Barry Rhett Bradford 390 Utley Idaho Falls, Id 83401 TELEPHONE NUMBER: no phone		CLAIMANT'S ATTORNEY'S NAME AND ADDRESS Paul T. Curtis CURTIS & BROWNING 598 N. Capital Idaho Falls, Idaho 83402	
EMPLOYERS NAME AND ADDRESS (at the time of injury) Frontier Moving and Storage 568 Grange Lane Twin Falls, Idaho 83301		WORKERS' COMPENSATION INSURANCE CARRIER'S (NOT ADJUSTOR'S) NAME AND ADDRESS Idaho State Insurance Fund P.O. Box 83720 Boise, ID 83720	
CLAIMANT'S SOCIAL SECURITY NO. [REDACTED]	CLAIMANT'S BIRTHDAY [REDACTED]	DATE OF INJURY OR MANIFESTATION OF OCCUPATIONAL DISEASE	
STATE AND COUNTY IN WHICH INJURY OCCURRED Idaho Bonneville		WHEN INJURED, CLAIMANT WAS EARNING AN AVERAGE WEEKLY WAGE of: \$ 10.00 per hour §72-419, IDAHO CODE	
DESCRIBE HOW INJURY OR OCCUPATIONAL DISEASE OCCURRED (WHAT HAPPENED) Claimant was called to come to work at 8:00 a.m. He was instructed to un-jam a freight access door. The door malfunctioned causing the Claimant to flip off of a forklift onto the cement floor causing significant injuries to his person.			
NATURE OF MEDICAL PROBLEMS ALLEGED AS A RESULT OF ACCIDENT OR OCCUPATIONAL DISEASE Burst fracture involving the T9 vertebra. Multiple bilateral rib fractures. Respiratory distress; Fracture of the C5 Spinous process; Multiple spinous process fractures involving T3-T9; Fractures involving T6-T10; Clavicular fractures; Fractures of the glenoids bilaterally.			
WHAT WORKERS' COMPENSATION BENEFITS ARE YOU CLAIMING AT THIS TIME? PPI, TPD, TTD, Non-Medical Factor Disability, Past Medical Expenses, Future Medical Expenses, Retraining, and Attorney's Fees.			
DATE ON WHICH NOTICE OF INJURY WAS GIVEN TO EMPLOYER 8/09/06		TO WHOM NOTICE WAS GIVEN: Frontier Supervisor	
HOW NOTICE WAS GIVEN <input checked="" type="checkbox"/> ORAL <input checked="" type="checkbox"/> WRITTEN <input type="checkbox"/> OTHER, PLEASE STATE			
ISSUE OR ISSUES INVOLVED PPI, TPD, TTD, Non-Medical Factor Disability, Past Medical Expenses, Future Medical Expenses, Retraining, and Attorney's Fees. Possible Total Perm.			
DO YOU BELIEVE THIS CLAIM PRESENTS A NEW QUESTION OF LAW OR A COMPLICATED SET OF FACTS? _____ YES <input checked="" type="checkbox"/> NO IF SO, PLEASE STATE WHY			
NOTICE: COMPLAINTS AGAINST THE INDUSTRIAL INDEMNITY FUND MUST BE FILED ON FORM I.C. 1002			

PHYSICIANS WHO TREATED CLAIMANT (NAME AND ADDRESS) Dr. Robert Cache 2375 E. Sunnyside, Suite G. Idaho Falls, ID 83404		
WHAT MEDICAL COSTS HAVE YOU INCURRED TO DATE? WHAT MEDICAL COSTS HAS YOUR EMPLOYER PAID, IF ANY? \$ _____ WHAT MEDICAL COSTS HAS YOU PAID, IF ANY? \$ _____		
I AM INTERESTED IN MEDIATING THIS CLAIM, IF THE OTHER PARTIES AGREE <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
DATE 1/05/07	SIGNATURE OF CLAIMANT OR ATTORNEY 	
PLEASE ANSWER THE SET OF QUESTIONS IMMEDIATELY BELOW ONLY IF CLAIM IS MADE FOR DEATH BENEFITS		
NAME AND SOCIAL SECURITY NUMBER OF PARTY FILING COMPLAINT	DATE OF DEATH	RELATION OF DECEASED TO CLAIMANT
WAS FILING PARTY DEPENDENT ON DECEASED <input type="checkbox"/> yes <input type="checkbox"/> no		DID CLAIMANT LIVE WITH DECEASED AT TIME OF ACCIDENT? <input type="checkbox"/> yes <input type="checkbox"/> no

CLAIMANT MUST COMPLETE, SIGN AND DATE THE ATTACHED MEDICAL RELEASE

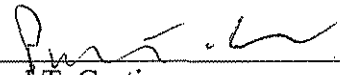
CERTIFICATE OF SERVICE

I hereby certify that on the 5th day of January, 2007, I caused to be served a true and correct copy of the foregoing Complaint upon:

Employer Frontier Moving & Storage 568 Grange Lane Twin Falls, Idaho 83301	WORKERS' COMPENSATION INSURANCE CARRIER'S (NOT ADJUSTOR'S) NAME AND ADDRESS Idaho State Insurance Fund P.O. Box 83720 Boise, ID 83720
---	---

via: ☐ personal service of persons
☒ Regular U.S. Mail

via: ☐ personal service of persons
☒ Regular U.S. Mail


Paul T. Curtis

SEND ORIGINAL TO: INDUSTRIAL COMMISSION, JUDICIAL DIVISION, P.O. BOX 83720, BOISE, IDAHO 83720-0041

ANSWER TO AMENDED COMPLAINT (dated 1/19/2007)

I.C. NO.: 06-523989

DATE: 8/9/2006

- ☒ The above-named employer or employer/surety responds to Claimant's Complaint by stating:
- ☐ The Industrial Special Indemnity Fund responds to the Complaint against the ISIF by stating:

CLAIMANT'S NAME AND ADDRESS Barry Bradford 390 Utley Idaho Falls, ID 83401	CLAIMANT'S ATTORNEY'S NAME AND ADDRESS Paul T. Curtis 598 N. Capital Idaho Falls, ID 83402
EMPLOYER'S NAME AND ADDRESS Frontier Moving & Storage, Inc. 568 Grange Ln. Twin Falls, ID 83301 TELEPHONE NUMBER:	WORKERS' COMPENSATION INSURANCE CARRIER'S (NOT ADJUSTOR'S) NAME AND ADDRESS Idaho State Insurance Fund 1215 West State Street P.O. Box 83720 Boise, ID 83720-0044
ATTORNEY REPRESENTING EMPLOYER OR EMPLOYER/SURETY (NAME AND ADDRESS) Blake G. Hall and Scott R. Hall Anderson Nelson Hall Smith, P.A. P.O. Box 51630 Idaho Falls, Idaho 83405-1630	ATTORNEY REPRESENTING INDUSTRIAL SPECIAL INDEMNITY FUND (NAME AND ADDRESS)

IT IS: (Check One)	
Admitted	Denied
X	
	X
X	
	X
n/a	n/a
X	
	X
X	

1. That the accident or occupational exposure alleged in the Complaint actually occurred on or about the time claimed.
2. That the employer/employee relationship existed.
3. That the parties were subject to the provisions of the Idaho Workers' Compensation Act.
4. That the condition for which benefits are claimed was caused partly or entirely XXXX by an accident arising out of and in the course of Claimant's employment.
5. That, if an occupational disease is alleged, manifestation of such disease is or was due to the nature of the employment in which the hazards of such disease actually exist, are characteristic of and peculiar to the trade, occupation, process, or employment.
6. That notice of the accident causing the injury, or notice of the occupational disease, was given to the employer as soon as practical but not later than 60 days after such accident or 60 days of the manifestation of such occupational disease.
7. That the rate of wages claimed is correct. If denied, state the average weekly wage pursuant to Idaho Code, § 72-419: Not an employee.
8. That the alleged employer was insured or permissibly self-insured under the Idaho Workers' Compensation Act.

9. What benefits, if any, do
concede are due Claimant?

NONE.

you

RECEIVED
INDUSTRIAL COMMISSION
JAN 29 11:33

10. State with specificity what matters are in dispute and your reason for denying liability, together with any affirmative defenses.

* Employer/Surety deny each and every allegation not specifically admitted herein.

* Employer/Surety affirmatively allege the Claimant fails to state a cause of action upon which relief can be granted.

*Employer/Surety affirmatively allege discovery is just beginning and reserve the right to supplement this answer and to add additional affirmative defenses from time to time as the same are discovered or discerned.

*Employer/Surety deny entitlement to additional medical benefits, TPD, TTD, PPI, PPD, retraining, Attorney Fees, total permanent disability, or or any other benefit as alleged in the Complaint.

* Employer/Surety affirmatively allege maximum medical improvement.

* Employer/Surety affirmatively allege 72-208.

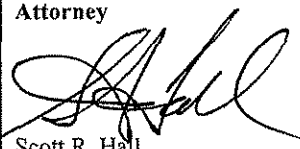
* Employer/Surety affirmatively alleges that Claimant was not an employee of the employer as defined by Idaho Code §§72-102(12) and 72-102(13) but alternatively that Claimant was a lump sum and self employed.

Under the Commission rules, you have 21 days from the date of service of the Complaint to answer the Complaint. A copy of your Answer must be mailed to the Commission and a copy must be served on all parties or their attorneys by regular U.S. mail or by personal service of process. Unless you deny liability, you should pay immediately the compensation required by law, and not cause the claimant, as well as yourself, the expense of a hearing. All compensation which is concededly due and accrued should be paid. Payments due should not be withheld because a Complaint has been filed. Rule 3.D., Judicial Rules of Practice and Procedure under the Idaho Workers' Compensation Law, applied. Complaints against the Industrial Special Indemnity Fund must be filed out Form I.C. 1002.

I AM INTERESTED IN MEDIATING THIS CLAIM, IF THE OTHER PARTIES AGREE. ☐ YES ☒ NO

DO YOU BELIEVE THIS CLAIM PRESENTS A NEW QUESTION OF LAW OR A COMPLICATED SET OF FACTS? IF SO, PLEASE STATE.

No

Amount of Compensation Paid to Date			Dated	Signature of Defendant or Attorney
PPI/PPD	TTD	MEDICAL		
\$0.00	\$0.00	\$0.00	1/24/2007	 Scott R. Hall

CERTIFICATE OF SERVICE

I hereby certify that on the 24th day of January, 2007, I caused to be served a true and correct copy of the foregoing Answer upon:

CLAIMANT'S NAME AND ADDRESS

Barry Bradford
c/o Paul T. Curtis
598 N. Capital, Ave.
Idaho Falls, ID 83402

EMPLOYER AND SURETY'S

State Insurance Fund
P.O. Box 83720
Boise, Idaho 83720-0044

CO-DEFENDANT

Monte R. Whittier
P.O. Box 6358
Boise, ID 83707-6358

via: ☐ personal service of process
☒ regular U.S. Mail

via: ☐ personal service of process
☒ regular U.S. Mail

Signature

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

BARRY R BRADFORD,

Claimant,

v.

ROCHE MOVING & STORAGE, INC.,
Employer, and LIBERTY NORTHWEST
INSURANCE CORPORATION, Surety,

and

FRONTIER MOVING AND STORAGE,
Employer, and STATE INSURANCE
FUND, Surety,

Defendants.

IC 2006-524422
2006-523989

ORDER TO CONSOLIDATE

FILED


JAN 22 2007

INDUSTRIAL COMMISSION



Pursuant to the telephone conference held January 17, 2007, the Industrial Commission of the State of Idaho hereby ORDERS that those claims presently pending before the Commission known as IC Numbers 2006-524422 and 2006-523989 are consolidated into a single proceeding. Future pleadings require reference to the two IC numbers listed above, but only a single document need be filed with the Commission.

DATED this 22 day of January, 2007.

INDUSTRIAL COMMISSION


Alan Reed Taylor, Referee

ATTEST:


Assistant Commission Secretary


ORDER TO CONSOLIDATE - 1

CERTIFICATE OF SERVICE

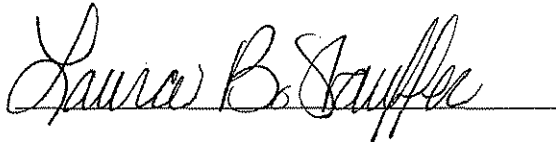
I hereby certify that on the 22 day of January, 2007, a true and correct copy of the foregoing **ORDER TO CONSOLIDATE** was served by regular United States mail upon each of the following persons:

PAUL T CURTIS
598 NORTH CAPITAL
IDAHO FALLS ID 83402

MONTE R WHITTIER
LAW OFFICES OF HARMON, WHITTIER & DAY
P O BOX 7507
BOISE ID 83707

SCOTT R HALL
P O BOX 51630
IDAHO FALLS ID 83405-1630

lbs

A handwritten signature in cursive script, reading "Laura B. Gauffer", is written over a horizontal line.

Blake G. Hall (Idaho State Bar No. 2434)
Scott R. Hall (Idaho State Bar No. 3547)
ANDERSON NELSON HALL SMITH, P.A.
490 Memorial Drive
Post Office Box 51630
Idaho Falls, Idaho 83405-1630
Telephone (208) 522-3001
Fax (208) 523-7254
Attorneys for Defendants

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

BARRY BRADFORD,

Claimant,

v.

ROCHE MOVING & STORAGE, INC.,
Employer, and LIBERTY NORTHWEST
INSURANCE CORPORATION, Surety,

and

FRONTIER MOVING & STORAGE, INC.,
Employer, and STATE INSURANCE FUND,
Surety.

Defendants.

I.C. No: 06-524422
06-523989

MOTION TO CORRECT RECORD

2007 JUN -4 11:19
RECEIVED
INDUSTRIAL COMMISSION

COMES Frontier Moving 7 Storage, Inc., through counsel of record, Scott R. Hall of the law firm Anderson Nelson Hall Smith, P.A., and moves the Commission to correct the hearing transcript at page 275, line 18. Said line currently reads as follows: "And when we look at 6/15 and 6/27, on 6/27 he gets". The reference in said line is to certain pages of the exhibits and should read: "And when we look at 615 and 627, on 627 he gets".

Defendants request that the Commission correct said transcription error.

DATED this 1 day of June, 2007.



Scott R. Hall

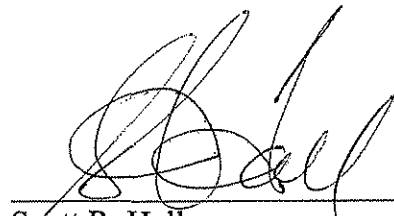
CERTIFICATE OF SERVICE

I hereby certify that I served a true copy of the foregoing document upon the following this 1st day of June, 2007, by hand delivery, mailing, or facsimile with the necessary postage affixed thereto.

Monte R. Whittier
Harmon, Whittier & Day
P.O. Box 6358
Boise, ID 83707-6358

Paul T. Curtis
598 North Capital Avenue
Idaho Falls, ID 83402

- ☒ Mailing
- ☐ Hand Deliver
- ☐ Facsimile
- ☐ E-Mail
- ☐ Overnight Mail



Scott R. Hall

L:\srh\2719.322\Mot.Correct.Record.wpd

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

BARRY R BRADFORD,

Claimant,

v.

ROCHE MOVING & STORAGE, INC.,
Employer, and LIBERTY NORTHWEST
INSURANCE CORPORATION, Surety,

and

FRONTIER MOVING AND STORAGE,
Employer, and STATE INSURANCE
FUND, Surety,

Defendants.

IC 2006-524422
2006-523989

ORDER GRANTING MOTION TO
CORRECT RECORD

FILED

JUN 29 2007

INDUSTRIAL COMMISSION

On June 4, 2007, Defendants Frontier Moving & Storage, Inc., and State Insurance Fund filed a Motion to Correct Record. No party responded to the motion. Upon review of the May 4, 2007, hearing transcript,

IT IS HEREBY ORDERED that the hearing transcript at page 275, line 18 which reads: "And when we look at 6/15 and 6/27 he gets," shall read: "And when we look at 615 and 627, on 627 he gets." Defendants Frontier Moving & Storage, Inc., and State Insurance Funds Motion to Correct Record is GRANTED for the reason that the transcription was in error.

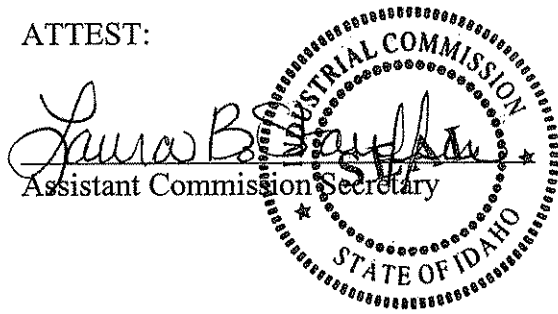
DATED this 29 day of June, 2007.

INDUSTRIAL COMMISSION


Alan Reed Taylor, Referee

ORDER GRANTING MOTION TO CORRECT RECORD - 1

ATTEST:



CERTIFICATE OF SERVICE

I hereby certify that on the 29 day of June, 2007, a true and correct copy of the foregoing **ORDER GRANTING MOTION TO CORRECT RECORD** was served by regular United States mail upon each of the following persons:

PAUL T CURTIS
598 NORTH CAPITAL
IDAHO FALLS ID 83402

SCOTT R HALL
P O BOX 51630
IDAHO FALLS ID 83405-1630

MONTE R WHITTIER
LAW OFFICES OF HARMON, WHITTIER & DAY
P O BOX 7507
BOISE ID 83707

lbs

A handwritten signature of Laura B. Skupper in cursive script, written over a horizontal line.

ORDER GRANTING MOTION TO CORRECT RECORD - 2

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

BARRY BRADFORD,)	
)	
Claimant,	)	IC 2006-524422
	)	IC 2006-523989
v.)	
	)	FINDINGS OF FACT,
ROCHE MOVING & STORAGE, INC.,	)	CONCLUSION OF LAW,
Employer, and LIBERTY NORTHWEST	)	AND RECOMMENDATION
INSURANCE CORPORATION, Surety,)	
)	
and)	
	)	FILED
FRONTIER MOVING AND STORAGE,	)	NOV - 9 2007
Employer, and STATE INSURANCE)	
FUND, Surety,	)	INDUSTRIAL COMMISSION
)	
Defendants.)	
)	

INTRODUCTION

Pursuant to Idaho Code § 72-506, the Idaho Industrial Commission assigned the above-entitled matter to Referee Alan Taylor, who conducted a hearing in Idaho Falls on May 3 and 4, 2007. Claimant, Barry Bradford, was present in person and represented by Paul T. Curtis of Idaho Falls. Defendant Employer, Roche Moving & Storage, Inc. (Roche), and Defendant Surety, Liberty Northwest Insurance Corporation, were represented by Monte R. Whittier of Boise. Defendant Employer Frontier Moving and Storage (Frontier), and Defendant Surety, State Insurance Fund, were represented by Scott R. Hall of Idaho Falls. The parties presented oral and documentary evidence. This matter was then continued for the submission of briefs, and subsequently came under advisement on July 19, 2007.

FINDINGS OF FACT, CONCLUSION OF LAW, AND RECOMMENDATION - 1

ISSUES

The issues to be resolved are who was Claimant's employer, or was Claimant an independent contractor, on August 9, 2006?

ARGUMENTS OF THE PARTIES

All parties concede Claimant was severely injured on August 9, 2006, on the business premises used, or later used, by Roche and Frontier. Claimant argues he was a direct employee of either Roche or Frontier at the time of his accident.

Roche maintains that Claimant was not a Roche employee at the time of the accident—although he had previously been a Roche employee. Roche argues that Claimant's actions at the time of his accident were purely voluntary. Roche asserts that if Claimant is deemed an employee at all at the time of his accident, then he was the employee of Frontier, to whom Roche sold its business effective August 1, 2006.

Frontier maintains that Claimant was not its employee at the time of the accident and has never been its employee. Frontier argues that its purchase of the Roche business was not completed until the final signing of the purchase agreement on November 21, 2006. Frontier alleges that, in any event, Claimant's actions at the time of his accident were purely voluntary and not as an employee.

EVIDENCE CONSIDERED

The record in this matter consists of the following:

1. The testimony of Claimant, Brenda Hill, Chad Rose, Dean Cook, and Darren Smith taken at the May 3 and 4, 2007, hearing;
2. Exhibits A through II admitted at the hearing;

All objections made during the depositions of Chad Rose and Dean Cook are overruled.

FINDINGS OF FACT, CONCLUSION OF LAW, AND RECOMMENDATION - 2

After having fully considered all of the above evidence, and the arguments of the parties, the Referee submits the following findings of fact and conclusion of law.

FINDINGS OF FACT

1. Defendant Roche was a moving and storage company owned and operated by Dean Cook with a storage warehouse located in Idaho Falls. Roche provided moving and storage services to the general public. Roche packed and stored household and commercial goods in its warehouse, received goods into storage, and retrieved and delivered goods from its warehouse. Roche's operation was exclusively moving and warehouse storage. The bulk of Roche's work occurred in the warmer months.

2. Claimant was 45 years old and lived in Osgood at the time of the subject accident. He completed the ninth grade and later obtained a high school equivalency certificate. Claimant is an experienced mover. He is skilled in overseas packaging and shipment, and in residential and commercial moving, storage, and general warehouse work. Claimant first began working for Roche in the 1990's and then returned to work for Roche in 2005 as a regular hourly employee.

3. In 2005, Roche had approximately 10 employees. Two employees were salaried full-time employees: Cook and his secretary Brenda Hill. All other Roche employees were considered regular hourly workers and were paid by the hour with a minimum of four hours per day, and additional amounts according to the actual hours they worked each day. Roche's regular hourly workers did not always work 40 hours per week, but were expected to report for work at the Roche warehouse each morning Monday through Friday during the busy moving season and be available to be called in for work during the slower season. They accrued vacation and unemployment benefits, and Roche withheld taxes from their earnings. Claimant was considered a regular hourly Roche

FINDINGS OF FACT, CONCLUSION OF LAW, AND RECOMMENDATION - 3

employee in 2005.

4. Roche also used as needed hourly workers to assist as day laborers during busy times. Roche paid as needed hourly workers by the hour, for a minimum of four hours. Roche apparently considered an hourly worker paid by Roche, whether regular or as needed, to be covered under Roche's workers' compensation insurance for the time which he worked for Roche. In 2005 Roche paid as needed hourly workers \$10 per hour and did not withhold any taxes. These workers did not accrue paid vacation or unemployment benefits. When called to work at Roche's warehouse, as needed hourly workers reported to the office upon arriving and kept their own time card for that day.

5. Roche generally used hourly workers for local moves. Hourly workers loaded and/or unloaded trucks and packed materials at Roche's warehouse or at Roche's customers' residences. Roche provided all necessary tools and hourly workers could have quit for any reason at any time without liability.

6. Consistent with standard moving industry practice, Roche maintained a lumper list comprised of individuals interested in helping out-of-town truck drivers load and/or unload their trucks in the Idaho Falls area. Out-of-town drivers regularly called Roche requesting lumpers at a specified day and time, whereupon Roche arranged for individuals from the lumper list to meet the driver at the parking lot of Roche's warehouse. Lumpers often put their names on many moving companies' lumper lists to obtain more work. Lumpers were paid cash by the driver for whom they worked. Lumpers were customarily paid \$12 per hour to unload and \$15 per hour to load. On very rare occasions, Roche paid the lumper if the driver ran out of cash and Roche was then reimbursed by the driver's company. Roche did not consider lumpers to be Roche employees because they worked for, were directed by, and were paid by out-of-town drivers. Roche's lumper list included a

number of Roche hourly workers who were available from time to time to work as lumpers for out-of-town drivers when Roche's own moving and warehouse work slowed.

7. Occasionally, Roche hourly workers worked four hours for Roche at its warehouse and four hours for drivers as lumpers on the same day. In such instances the truck driver paid for the hours spent as a lumper and Roche paid for the hours spent as a worker at Roche's warehouse. An Allied Van Lines shirt was required wear of Roche's regular and as needed hourly workers and of lumpers also.

8. Claimant was a regular hourly worker for Roche during most of 2005 for which Roche paid him over \$15,000 and withheld taxes. Claimant loaded and unloaded trucks and worked in Roche's warehouse. He was a good dependable worker. Roche paid Claimant \$9 per hour and required him to submit daily time sheets documenting his work hours. Claimant came in everyday during the busy season, and thereafter reported only when called in by Roche during the slow season. Claimant had no written employment contract and Cook could have terminated Claimant's employment with Roche at any time. Cook and, occasionally Hill, were Claimant's supervisors.

9. As 2005 progressed, Cook experienced ill health and underwent multiple treatments for cancer. He was forced to curtail Roche's business activities.

10. In January 2006, Claimant and a number of others were taken off Roche's regular payroll. Claimant then left Roche and began working for another moving and storage company in February 2006. Sometime in the late spring of 2006, at Claimant's request, his name was placed on Roche's lumper list. Roche thereafter called Claimant periodically to work as a lumper for out-of-town drivers.

11. Roche also called Claimant for as needed hourly work for Roche's warehouse and

FINDINGS OF FACT, CONCLUSION OF LAW, AND RECOMMENDATION - 5

customers in June and July 2006. Claimant's work for Roche in 2006 was the same type of work he had performed in 2005. Roche paid Claimant \$10 per hour for a total of approximately \$1,500 in 2006. Roche withheld no taxes from Claimant's checks.

12. On occasion, lumpers who were waiting at the Roche warehouse helped regular Roche employees with warehouse duties for a few minutes until the lumper's out-of-town driver arrived. This assistance was provided voluntarily and gratuitously. Roche did not expect or require such assistance as a prerequisite to placing an individual on the lumper list. As a lumper, Claimant usually helped in such situations. On those occasions, Claimant donated his time and did not expect or request payment for a few minutes of service.

13. In the summer of 2006, Frontier began negotiating an asset purchase agreement with Roche. An agreement was drafted with an effective date of August 1, 2006. The August 1, 2006, date was selected so Frontier could benefit from the busy summer moving season. The purchase agreement essentially provided for Frontier to begin managing on the effective date and to cover all expenses and receive all income from the business commencing August 1, 2006. In accordance with the purchase agreement, Cook received payment for work performed before August 1, 2006, but did not receive any income from Roche after that day. Also in accordance with the agreement, Frontier paid business expenses for work performed on and after August 1, even though Roche initially paid some such bills and was then reimbursed by Frontier. Pursuant to the purchase agreement, Frontier made an initial payment of \$10,000 to Cook on approximately August 1, 2006, for the Roche business.

14. On August 1, and for a few hours each day for several days thereafter, Cook was present in the warehouse. However, Cook did not manage any personnel on or after August 1, 2006.

On August 1, 2006, Frontier recognized as employees Hill, Scott Lancaster, and several others not including Claimant. Hill understood she was a Frontier employee as of August 1, 2006. In contrast, Claimant never filled out a W-4, I-9 or any other form for Frontier.

15. On August 2, 2006, two former Roche employees, Shane Storer and Cord Lemons, were injured while helping with a Roche/Frontier moving job in Pocatello. Roche filed workers' compensation claims for both men and their claims were paid.

16. On August 3 and 4, 2006, Hill called Claimant in as an hourly worker to assist with moving and packing for a Roche/Frontier customer in Chubbuck. Roche initially paid Claimant by the hour for his work on those days, but this expense was later reimbursed to Roche by Frontier.

17. On August 7, 2007, Frontier's manager, Chad Rose, arrived at the Idaho Falls warehouse and began managing the Frontier operation in person. Cook did not direct Rose. Frontier co-owner Darren Smith was also present at the warehouse by August 7, 2006. Rose set up a new computer system and new bookkeeping system. Hill accounted to Smith and Rose. Rose managed all day to day Frontier operations. Hill showed Rose the scheduling books and helped him understand the business. Although Rose was in charge, Hill assigned hourly workers and orchestrated lumpers for the first several weeks after Rose's arrival. Rose had never called in any hourly workers or lumpers prior to August 9, 2006.

18. Rose met Claimant briefly for the first time on August 7 or 8, 2006. Rose was probably aware that Claimant had worked for Roche previously.

19. On August 7 or 8, 2006, Cook and Smith took the former Roche regular employees out to dinner to help reassure them of their job security with Frontier. Claimant was not invited and did not attend.

FINDINGS OF FACT, CONCLUSION OF LAW, AND RECOMMENDATION - 7

20. On August 7, 2006, Claimant was married.

21. On August 8, 2006, Hill called Claimant and arranged for Claimant to work as a lumber to meet an out-of-town driver at 8:00 a.m. the next day at the warehouse parking lot and help unload the driver's truck. August 8th was also Claimant's wedding reception. Claimant acknowledged that he was drunk the evening of August 8th, but asserted that he drank no alcohol after 10:00 that evening. Claimant denies he was drunk on August 9, 2006.

22. On August 9, 2006, at approximately 7:30 a.m., Frontier manager Rose arrived at the warehouse and attempted to raise the main warehouse door. It jammed after raising approximately five feet. Lancaster arrived shortly thereafter and together with Rose unsuccessfully attempted to raise the door with a crowbar. A freight truck arrived at the warehouse carrying overseas crates which required a forklift to unload. The forklift was inside the warehouse.

23. The main warehouse door was a 14 foot tall spring-assisted door comprised of multiple wooden panels. The vertical sides of the door panels sported rollers which ran in vertical rails on either side. The rollers occasionally stuck in the tracks due to weld spots on the rails and required additional force—including the use of a crowbar—to free the rollers and raise the door.

24. Claimant arrived shortly before 8:00 a.m. on August 9, 2006, and met the out-of-town driver for whom Claimant was to work as a lumber that day. The driver was in his truck in the warehouse parking lot awaiting the arrival of a second lumber. Claimant noticed the warehouse door was stuck and observed Rose and Lancaster trying to free it. Claimant was familiar with the process of freeing the door rollers and had done so on previous occasions as a Roche hourly worker. Claimant asked the driver if he could help raise the warehouse door. The driver consented. The driver's load was not for delivery to the warehouse and had no connection with either Roche or

Frontier's business operations. Claimant later acknowledged that he wanted to help free the door to make a good impression on the new warehouse operators and get on Frontier's steady payroll.

25. The testimony of the witnesses is partially conflicting as to the brief conversation that occurred at this point. Rose testified that while he and Lancaster worked on the door, Claimant approached and said "stand over on that side" Transcript p. 149, Ll. 18-19, or "Here, let me show you. Let me help you out here." Deposition of Chad Rose, p. 25, Ll. 11-12. Rose testified that Lancaster did not ask Claimant to help and that Claimant did not ask Rose if he could work on the door. Rose did not ask Claimant to help with the door. Rose perceived that Claimant was taking control of the situation. August 9th was Rose's third day managing the warehouse on site and from Claimant's statement, Rose believed that the door had jammed before and that Claimant knew how to free it. Rose could have stopped Claimant from helping with the door but did not.

26. Lancaster testified that he asked Claimant to help with the door. Lancaster was acknowledged as a Frontier employee at that time, but had no authority to hire others to assist at the warehouse on behalf of Frontier. Lancaster left Frontier's employment approximately three weeks later because he was unhappy with his compensation.

27. Claimant testified that he looked at Lancaster and asked: "You need a hand here? And he goes, Yes." Transcript p. 389, Ll. 21-22.

28. Claimant observed that one or more rollers of the door were displaced from the rails to a greater extent than he had ever before seen, that the rollers of the bottom door panel were not only out of their rails, but the entire bottom panel itself was angled sharply out of the usual vertical alignment of the other door panels, and that a cable from the door was caught around a ladder affixed to an adjacent wall. Claimant helped Lancaster push on the crowbar but to no avail. Claimant then

climbed up the ladder and stomped on the door with both feet, dislodging the cable and perhaps even breaking free a panel of the door. Once freed, the spring-assisted door shot upward, projecting Claimant abruptly upward, perhaps as high as the 22 foot warehouse ceiling, after which Claimant fell to the concrete floor sustaining multiple severe injuries. Only a few minutes elapsed from Claimant's arrival at the warehouse entrance until he was injured. Claimant was taken via ambulance to a nearby hospital where his blood alcohol level measured 0.197; Idaho's legal driving limit is 0.08. He remained hospitalized for an extended period.

29. At the time of the accident, Claimant was dressed consistent with Roche's dress code in clean Levis and an Allied shirt. This was also required dress for lumpers.

30. It is undisputed that except to the extent that Lancaster may have invited Claimant's help as noted above, no one from Roche or Frontier asked or directed Claimant to do any work for Roche or Frontier on August 9, 2006. Claimant was not called to come to work at the warehouse. Claimant only came onto the warehouse property to meet the driver for whom he was to work as a lumper that day. The truck and load that Claimant was to unload was not for storage or handling by Roche or Frontier.

31. Claimant did not claim, and neither Roche nor Frontier promised or provided, any compensation for his activities on the day of his accident.

32. Approximately November 21, 2006, Roche and Frontier completed the final accounting and signed the asset purchase agreement. Roche owed substantial property and payroll taxes, and back due rent. This, together with delayed receipt of definitive statements from Allied to Roche, delayed final reconciliation and accounting. The effective date stated in the executed purchase agreement remained August 1, 2006.

33. Having carefully examined the record herein and observed the witnesses at hearing, the Referee finds Claimant honest and forthright, however as noted above, Claimant's blood alcohol level at the time of the accident was 0.197 which is approximately two and one-half times the legal limit to operate a motor vehicle. The accuracy of Claimant's perception, judgment, and recollection of the events surrounding the accident are subject to question due to his blood alcohol level. The Referee finds the testimony of Rose and Smith more reliable than that of Claimant.

DISCUSSION AND FURTHER FINDINGS

34. The provisions of the Workers' Compensation Law are to be liberally construed in favor of the employee. Haldiman v. American Fine Foods, 117 Idaho 955, 956, 793 P.2d 187, 188 (1990). The humane purposes which it serves leave no room for narrow, technical construction. Ogden v. Thompson, 128 Idaho 87, 88, 910 P.2d 759, 760 (1996). Facts, however, need not be construed liberally in favor of the worker when evidence is conflicting. Aldrich v. Lamb-Weston, Inc., 122 Idaho 361, 363, 834 P.2d 878, 880 (1992).

35. **Employment relationship.** Coverage under the workers' compensation law generally depends upon the existence of an employer-employee relationship. Anderson v. Gailey, 97 Idaho 813, 555 P.2d 144 (1976).

36. Claimant initially argues that because his accident occurred on Roche/Frontier's business premises, it is presumed to have occurred in the course of his employment with Roche or Frontier. This assertion ignores the threshold question of whether Claimant at the time of his accident was an employee of Roche or Frontier. "Before one can receive compensation for injuries sustained and claimed to have occurred during the course of his employment, it is axiomatic that the relationship of employer and employee must be shown to exist." Seward v. State Brand Division, 75

Idaho 467, 471-472, 274 P.2d 993, 997-998 (1954).

37. Claimant asserts he was a Roche or Frontier employee on August 9, 2006. Cook testified that Claimant was not an employee of Roche during 2006. Smith testified Claimant was not an employee of Frontier at any time. Whether Claimant was a direct employee of Roche or Frontier at the time of his accident is a factual issue. Claimant has the initial burden of proving this relationship.

38. Control is the hallmark of a direct employment relationship. The extent of the right to control distinguishes a direct employee from an independent contractor, and even more so, from a volunteer. The Idaho Supreme Court has described the extent of control which distinguishes an employee from an independent contractor:

The ultimate question in finding an employment relationship is whether the employer assumes the right to control the times, manner and method of executing the work of the employee, as distinguished from the right merely to require certain definite results in conforming with the agreement. Four factors are traditionally used in determining whether a 'right to control' exists, including, (1) direct evidence of the right; (2) payment and method of payment; (3) furnishing major items of equipment; and (4) the right to terminate the employment relationship at will and without liability.

Roman v. Horsley, 120 Idaho 136, 137, 814 P.2d 36, 37 (1991); quoting Burdick v. Thornton, 109 Idaho 869, 871, 712 P.2d 570, 572 (1985); see also Stoica v. Pocol, 136 Idaho 661, 39 P.3d 601 (2001).

39. Direct evidence of the right to control the manner and method of performing the work, the right to require compliance with instructions, to establish set hours of work, to require the worker to devote substantially full time to the business are all indicative of an employment relationship. In the present case, neither Roche nor Frontier controlled Claimant's activities on August 9, 2006. Claimant reported to work as a lumper for an out-of-town driver. Claimant asked

permission of the driver to help Rose and Lancaster raise the warehouse door. Neither Roche nor Frontier controlled or directed Claimant when he voluntarily and gratuitously attempted to help raise the warehouse door. Claimant's directive that others stand back or allow him to show them how to do it, is precisely the reverse of the normal direction of control from employer to employee, or from principal to independent contractor. The complete absence of control over Claimant by Roche or Frontier on August 9, 2006, emphasizes the fact that Claimant's actions were entirely voluntary.

40. Payment by the hour, week, day, month or other regular periodic interval generally suggests an employment relationship. Withholding income and social security taxes from a person's wages is also indicative of direct employment. In the present case, there was no payment whatsoever from Roche or Frontier to Claimant for his services on August 9, 2006, and no expectation thereof. Claimant's services were entirely gratuitous. Claimant argues he could have filed a time card for his time on August 9, 2006, however, no one at Roche or Frontier had or exercised control of Claimant's conduct on August 9, 2006. Claimant never requested compensation for his services. There was no agreement to compensate Claimant for his services. Claimant understood this, and testified that he did not expect any compensation but was motivated by a desire to make a good impression so that Frontier would hire him onto its regular payroll.

41. Furnishing major items of equipment is typical of an employment relationship. In the present case, there was no significant equipment furnished by any party beyond the jammed warehouse door.

42. The ability to terminate the relationship without incurring liability is indicative of an employment relationship. Here Claimant did not work exclusively with Roche or Frontier; he worked regularly as a lumber for out-of-town drivers and was, in fact working as a lumber on

August 9, 2006.

43. The facts of the present case do not demonstrate the right of control indicative of a direct employment relationship. Indeed, the facts do not constitute a circumstance where voluntary service is regular, expected, perhaps even scheduled, and the individual may even be formally denominated a "volunteer." Rather, the facts of the present case establish voluntary service that was irregular, unexpected, and spontaneous.

44. "Before one can become the employee of another, the knowledge and consent of the employer, express or implied, is required. Under the workmen's compensation law the relationship of employer and employee depends upon a contract of hire which may be either express or implied." In re Sines' Estate, 82 Idaho 527, 532, 356 P.2d 226, 230 (1960), (superseded by statute as to jurors in Yount v. Boundary County, 118 Idaho 307, 315, 796 P.2d 516, 524 (1990)). Several cases are particularly instructive.

45. In Larson v. Independent School Dist. No. 11J of King Hill, 53 Idaho 49, 22 P.2d 299 (1933), the school district contracted with Larson as school custodian. Although not named in the written contract, school board members expected and were aware that Larson's wife assisted him with custodial duties. In addition to Larson's salary, the school district provided housing for the Larson family. After several months of working, Larson's wife died in an accident while performing custodial work at the school. The Commission denied Larson's workers' compensation claim. The Idaho Supreme Court reversed, noting that the school district fully expected, and actually knew for several months, that Larson's wife assisted him in custodial duties, that the school district compensated Larson's wife by providing her housing, and had the right to control her services.

46. Larson may be distinguished from the present case in that Larson's wife not only

worked regularly for several months with the knowledge and expectation of the employer, but also received compensation for her work in the form of housing accommodations. In contrast, Claimant herein did not receive or expect any compensation. Claimant gratuitously offered his assistance for, quite literally, less than five minutes. Furthermore, no control existed or was exercised by Roche or Frontier. Neither Rose nor Lancaster had or asserted the right to control Claimant's conduct on August 9, 2006. Claimant offered his assistance purely voluntarily.

47. In Seward v. State Brand Division, 75 Idaho 467, 274 P.2d 993 (1954), Seward was injured while helping a state deputy brand inspector gratuitously examine brands at the express request of the deputy inspector. The Commission found that Seward was an independent livestock hauler, had previously helped with brand inspections on occasion, and was unaware that the deputy inspector had no authority to hire him. The Commission determined the accident was compensable. The Idaho Supreme Court reversed noting there was no assertion or evidence the state brand inspector was aware of the deputy's actions. The Court declared:

Before one can become the employee of another, knowledge and consent of the employer, expressed or implied, is required. Claimant did not have either an express oral or written agreement for employment and ... the Deputy Brand Inspector at Idaho Falls had no power or authority to employ him, if he did.

Before one can receive compensation for injuries sustained and claimed to have occurred during the course of his employment, it is axiomatic that the relationship of employer and employee must be shown to exist.

Services gratuitously and voluntarily performed for another or for the employee of an employer are, subject to certain exceptions not pertinent here, not covered by the Workmen's Compensation Act.

Seward v. State Brand Division, 75 Idaho 467, 274 P.2d 993 (1954).

48. The present case is similar to Seward in that Claimant herein offered his services

gratuitously and voluntarily. He neither expected nor received any compensation therefor. Claimant's only established dialogue with any other individual on August 9, 2006, was with Lancaster who had no authority from either Roche or Frontier to hire Claimant.

49. In Parker v. Engle, 115 Idaho 860, 771 P.2d 524 (1989), the Commission denied compensation to Parker, a former employee of the limited partnership Mara Green Acres (MGA), who was injured while loading a water heater. The Commission determined that the MGA manager had advised Parker several days prior to the accident that his employment with MGA would end after the completion of several projects—none involving the water heater. The spouse of the MGA manager later suggested Parker check the water heater if he had time, but did not request that Parker load or move the water heater. The Commission found Parker's actions regarding the water heater were strictly voluntary, and not pursuant to any employment relationship with MGA. The Idaho Supreme Court affirmed noting: "Voluntary activities will not suffice; an award of compensation depends on the existence of an employer/employee relationship." Parker, 115 Idaho at 865, 771 P.2d at 529.

50. Parker is similar to the present case in that the manager's spouse could not obligate MGA. Parker's service, like Claimant's herein, was a voluntary activity; not requested and not compensated.

51. Given that the key to determining whether a direct employment relationship existed is whether the alleged employer had the right to control the time, manner, and method of executing the work, as distinguished from the right to merely require the results agreed upon, it is apparent in the present case that neither Roche nor Frontier had or exercised the right to control Claimant's time, manner, or method of the service he attempted on August 9, 2006. Furthermore, neither Roche nor

Frontier had even the right to merely require the results agreed upon, because there was no agreement regarding results. The absence of these customary elements of control underscore the fact that Claimant's actions on August 9, 2006, were purely voluntary and gratuitous. "Voluntary activities will not suffice; an award of compensation depends on the existence of an employer/employee relationship." Parker v. Engle, 115 Idaho 860, 865, 771 P.2d 524, 529 (1989).

52. Claimant has not proven he was a direct employee of Roche or Frontier at the time of his accident on August 9, 2006.

CONCLUSION OF LAW

Claimant has not proven he was a direct employee of Roche or Frontier on August 9, 2006.

RECOMMENDATION

The Referee recommends that the Commission adopt the foregoing Findings of Fact and Conclusion of Law as its own, and issue an appropriate final order.

DATED this 2nd day of November, 2007.

INDUSTRIAL COMMISSION


Alan Reed Taylor, Referee

ATTEST:


Assistant Commission Secretary



FINDINGS OF FACT, CONCLUSION OF LAW, AND RECOMMENDATION - 17

CERTIFICATE OF SERVICE

I hereby certify that on the 9th day of November, 2007, a true and correct copy of **Findings of Fact, Conclusion of Law, and Recommendation** was served by regular United States Mail upon each of the following:

PAUL T CURTIS
598 NORTH CAPITAL
IDAHO FALLS ID 83402

MONTE R WHITTIER
P O BOX 6358
BOISE ID 83707-6358

SCOTT R HALL
P O BOX 51630
IDAHO FALLS ID 83405-1630

Kimma Andrews

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

BARRY BRADFORD,

Claimant,

v.

ROCHE MOVING & STORAGE, INC.,
Employer, and LIBERTY NORTHWEST
INSURANCE CORPORATION, Surety,

and

FRONTIER MOVING AND STORAGE,
Employer, and STATE INSURANCE
FUND, Surety,

Defendants.

IC 2006-524422

IC 2006-523989

ORDER

FILED

NOV - 9 2007

INDUSTRIAL COMMISSION

Pursuant to Idaho Code § 72-717, Referee Alan Taylor submitted the record in the above-entitled matter, together with his proposed findings of fact and conclusions of law to the members of the Idaho Industrial Commission for their review. Each of the undersigned Commissioners has reviewed the record and the recommendations of the Referee. The Commission concurs with these recommendations. Therefore, the Commission approves, confirms, and adopts the Referee's proposed findings of fact and conclusions of law as its own.

Based upon the foregoing reasons, IT IS HEREBY ORDERED That:

1. Claimant has not proven he was a direct employee of Roche or Frontier on August 9, 2006.


ORDER - 1

2. Pursuant to Idaho Code § 72-718, this decision is final and conclusive as to all issues adjudicated.

DATED this 9th day of November, 2007.

INDUSTRIAL COMMISSION

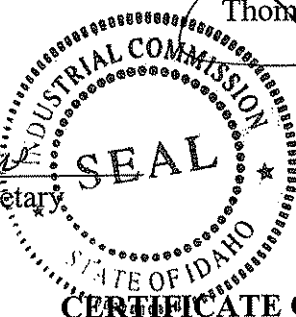

James F. Kile, Chairman


R. D. Maynard, Commissioner


Thomas E. Limbaugh, Commissioner

ATTEST:


Assistant Commission Secretary



CERTIFICATE OF SERVICE

I hereby certify that on the 9th day of November, 2007, a true and correct copy of the foregoing **Order** was served by regular United States Mail upon each of the following persons:

PAUL T CURTIS
598 NORTH CAPITAL AVENUE
IDAHO FALLS ID 83402

SCOTT R HALL
PO BOX 51630
IDAHO FALLS ID 83405-1630

MONTE R WHITTIER
PO BOX 6358
BOISE ID 83707-6358

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ORDER - 2

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CURTIS AND BROWNING

PAGE 01/05

Paul T. Curtis (ISB#6042)
CURTIS & BROWNING, P.A.
598 North Capital
Idaho Falls, Idaho 83402
Telephone (208) 542-6995
Facsimile (208) 542-6993

Attorneys for Claimant/Appellant

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BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

BARRY BRADFORD,)	I.C. No.
	)	2006-524422
Claimant/Appellant,	)	2006-523989
)	
v.)	
)	
ROCHE MOVING & STORAGE, INC.,	)	NOTICE OF APPEAL
Employer, and LIBERTY NORTHWEST)	
INSURANCE CORPORATION, Surety,)	
)	
and)	
)	
FRONTIER MOVING AND STORAGE,)	
INC., Employer, and STATE INSURANCE)	
FUND, Surety,)	
)	
Defendants/Respondents.)	

TO: THE ABOVE NAMED RESPONDENTS, ROCHE MOVING & STORAGE, INC. and LIBERTY NORTHWEST INSURANCE CORPORATION, BY AND THROUGH THEIR ATTORNEY OF RECORD, MONTE R. WHITTIER, AND FRONTIER MOVING AND STORAGE, INC., AND STATE INSURANCE FUND, BY AND THROUGH THEIR ATTORNEY OF RECORD, SCOTT R. HALL, AND THE CLERK OF THE IDAHO INDUSTRIAL COMMISSION.

NOTICE IS HEREBY GIVEN THAT:

1. The above name appellant, BARRY R. BRADFORD, appeals against the above named respondents to the Idaho Supreme Court from that ORDER of the INDUSTRIAL NOTICE OF APPEAL

Paul T. Curtis (ISB#6042)
CURTIS & BROWNING, P.A.
598 North Capital
Idaho Falls, Idaho 83402
Telephone (208) 542-6995
Facsimile (208) 542-6993

Attorneys for Claimant/Appellant

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

BARRY BRADFORD,	)	I.C. No.
	)	2006-524422
Claimant/Appellant,	)	2006-523989
)	
v.)	
)	
ROCHE MOVING & STORAGE, INC.,	)	NOTICE OF APPEAL
Employer, and LIBERTY NORTHWEST)	
INSURANCE CORPORATION, Surety,)	
)	
and)	
)	
FRONTIER MOVING AND STORAGE,)	
INC., Employer, and STATE INSURANCE)	
FUND, Surety,)	
)	
Defendants/Respondents.)	

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INDUSTRIAL COMMISSION

TO: THE ABOVE NAMED RESPONDENTS, ROCHE MOVING & STORAGE, INC. and LIBERTY NORTHWEST INSURANCE CORPORATION, BY AND THROUGH THEIR ATTORNEY OF RECORD, MONTE R. WHITTIER, AND FRONTIER MOVING AND STORAGE, INC., AND STATE INSURANCE FUND, BY AND THROUGH THEIR ATTORNEY OF RECORD, SCOTT R. HALL, AND THE CLERK OF THE IDAHO INDUSTRIAL COMMISSION.

NOTICE IS HEREBY GIVEN THAT:

1. The above name appellant, BARRY R. BRADFORD, appeals against the above named respondents to the Idaho Supreme Court from that ORDER of the INDUSTRIAL
- NOTICE OF APPEAL

COMMISSION OF THE STATE OF IDAHO, entered in the above entitled action on the 9 day of November, 2007, The Honorable Alan Reed Taylor, Referee, James F. Kile, Chairman of the Idaho Industrial Commission.

2. Appellant has a right to appeal to the Idaho Supreme Court, and the order described in paragraph 1 is appealable pursuant to I.A.P. Rule 11(d).
3. Appellant contends that the Industrial Commission's Order is erroneous as a matter of law in characterizing the Appellant as a "volunteer" rather than an employee. Appellant was injured on his employer's premises, while under the direction and control of his employer, while wearing his employer's uniform as required, during the course of conferring a benefit solely on the employer, and for which he could have submitted a time sheet, even if he did not. Other issues may be presented on appeal.
4. Appellant is not aware of any portion of the record having been ordered sealed.
5. (a) Reporter's transcript is requested.
(b) Appellant requests the entire reporter's transcript.
6. Appellant requests the documents to be included in the agency's record to include those automatically included per I.A.R. 28(b)(3).
7. I certify that:
 - (a) The clerk of the Industrial Commission is being paid the estimated fee of \$100.00 for preparation of the Clerk's record;
 - (b) The appellate filing fee in the amount of \$86.00 is being paid herewith;
 - (c) Service of this Notice of Appeal has been made upon all parties required to be served pursuant to Rule 20, I.A.R.

Dated: December 13, 2007



PAUL T. CURTIS
Attorney for Appellant, Barry R. Bradford

CERTIFICATE OF SERVICE

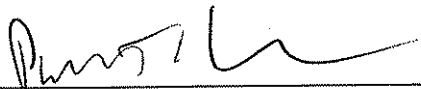
I hereby certify that on the 13 day of December, 2007, a true and correct copy of the foregoing **NOTICE OF APPEAL** was served upon the following attorneys of record by the method indicated:

Mr. Monte R. Whittier
HARMON, WHITTIER & DAY
P.O. Box 6358
Boise, ID 83707-7561

☒ First class mail
☐ Facsimile
☐ Hand-Delivery
☐ Express Mail

Mr. Scott R. Hall
ANDERSON, NELSON, HALL, SMITH
P.O. Box 51630
Idaho Falls, ID 83405-1630

☒ First class mail
☐ Facsimile
☐ Hand-Delivery
☐ Express Mail



Paul T. Curtis

RECEIVED
IDAHO SUPREME COURT
COURT OF APPEALS
2007 DEC 18 AM 8 43

BEFORE THE SUPREME COURT OF THE STATE OF IDAHO

BARRY BRADFORD,

Claimant/Appellant,

v.

ROCHE MOVING & STORAGE, INC.,
Employer, and LIBERTY NORTHWEST
INSURANCE CORPORATION, Surety,

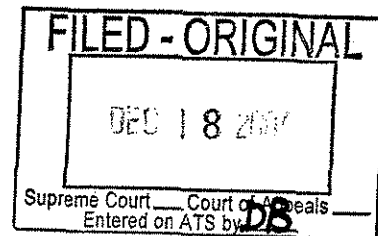
and

FRONTIER MOVING & STORAGE
INC., Employer, and IDAHO STATE
INSURANCE FUND, Surety,

Defendants/Respondents.

SUPREME COURT NO. 34954

CERTIFICATE OF APPEAL



Appeal From: Industrial Commission, Chairman, James F. Kile,
presiding.

Case Numbers: IC 2006-524422 & 2006-523989

Order Appealed from: Findings of Fact, Conclusions of Law, and
Recommendation, filed November 9, 2007; and
Order, filed November 9, 2007.

Attorney for Appellant: Paul T. Curtis
598 North Capital Avenue
Idaho Falls, ID 83402

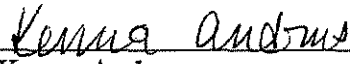
Attorney for Respondents
Roche Moving & Storage, Inc.
and Liberty Northwest Insurance Corp: Monte R. Whittier
PO Box 6358
Boise, ID 83707-6358

Attorney for Respondents
Frontier Moving & Storage
and Idaho State Insurance Fund: Scott R. Hall
PO Box 51630
Idaho Falls, ID 83405-1630

Appealed By: Claimant/Appellant

CERTIFICATE OF APPEAL - BRADFORD - 1

Appealed Against:	Defendants/Respondents
Notice of Appeal Filed:	December 13, 2007
Appellate Fee Paid:	\$86.00
Name of Reporter:	T & T Reporting
Transcript Requested:	Standard transcript has been requested. Transcript has been prepared and filed with the Commission.
Dated:	December 17, 2007



Kenna Andrus
Assistant Commission Secretary

CERTIFICATION

I, Kenna Andrus, the undersigned Assistant Commission Secretary of the Industrial Commission of the State of Idaho, hereby CERTIFY that the foregoing is a true and correct photocopy of the Notice of Appeal, filed December 13, 2007; Findings of Fact, Conclusions of Law, and Recommendation, and Order, filed November 9, 2007, and the whole thereof, in IC# 2006-524422 & IC# 2006-523989 for Barry Bradford.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of said Commission this 17th day of December, 2007.

Kenna Andrus
Kenna Andrus
Assistant Commission Secretary



CERTIFICATION OF RECORD

I, Kenna Andrus, the undersigned Assistant Secretary of the Industrial Commission, do hereby certify that the foregoing record contains true and correct copies of all pleadings, documents, and papers designated to be included in the Agency's Record on appeal by Rule 28(3) of the Idaho Appellate Rules and by the Notice of Appeal, pursuant to the provisions of Rule 28(b).

I further certify that all exhibits offered or admitted in this proceeding, if any, are correctly listed in the List of Exhibits (i). Said exhibits will be lodged with the Supreme Court upon settlement of the Transcript and Record herein.

DATED this 14th day of February, 2008.

Kenna Andrus
Kenna Andrus
Assistant Commission Secretary



BEFORE THE SUPREME COURT OF THE STATE OF IDAHO

BARRY BRADFORD,)
)
Claimant/Appellant,)
)
v.)
)
ROCHE MOVING & STORAGE, INC.,)
Employer, and LIBERTY NORTHWEST)
INSURANCE CORPORATION, Surety)
)
and)
)
FRONTIER MOVING & STORAGE)
INC., Employer, and IDAHO STATE)
INSURANCE FUND, Surety,)
)
Defendants/Respondents.)
_____)

SUPREME COURT NO. 34954

NOTICE OF COMPLETION

TO: STEPHEN W. KENYON, Clerk of the Courts; and
Paul T. Curtis for the Appellant; and
Monte R. Whittier for the Respondents (Roche); and
Scott R. Hall for the Respondents (Frontier).

YOU ARE HEREBY NOTIFIED that the Clerk's Record was completed on this date and,
pursuant to Rule 24(a) and Rule 27(a), Idaho Appellate Rules, copies of the same have been served
by regular U.S. mail upon each of the following:

PAUL T CURTIS
598 NORTH CAPITAL AVENUE
IDAHO FALLS ID 83402

MONTE R WHITTIER
PO BOX 6358
BOISE ID 83707

SCOTT R HALL
PO BOX 51630
IDAHO FALLS ID 83405-1630

NOTICE OF COMPLETION (BRADFORD – SC 34954) - 1

YOU ARE FURTHER NOTIFIED that pursuant to Rule 29(a), Idaho Appellate Rules, all parties have twenty-eight days from the date of this Notice in which to file objections to the Clerk's Record or Reporter's Transcript, including requests for corrections, additions or deletions. In the event no objections to the Clerk's Record or Reporter's Transcript are filed within the twenty-eight day period, the Clerk's Record and Reporter's Transcript shall be deemed settled.

DATED this 14th day of February, 2008.

Kenna Andrus
Kenna Andrus
Assistant Commission Secretary

